

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

| | | |
|-------------------------------|---|--|
| XIANG LI, |) | |
| |) | CASE NO. 4:12cv2829 |
| Petitioner, |) | |
| |) | |
| v. |) | JUDGE BENITA Y. PEARSON |
| |) | |
| MICHAEL PUGH, <i>et al.</i> , |) | |
| |) | <u>MEMORANDUM OF OPINION AND</u> |
| Respondents. |) | <u>ORDER</u> [Regarding ECF Nos. 1, 5] |

This “mandamus” action was filed on November 13, 2013. The Complaint seeks relief based upon a host of allegedly adverse conditions at the Northeast Ohio Correctional Institution, including law library access, medical treatment, and grievance and disciplinary procedures. [ECF No. 1 at 1-31](#). In an entry dated December 28, 2013, Plaintiff was ordered, pursuant to [28 U.S.C. § 1915\(b\)\(1\)](#), to either pay the full filing fee or file a proper Financial Application and prisoner account statement within 30 days. Although that 30 day period has expired, Plaintiff has not sought additional time and has neither paid the filing fee nor filed a proper Financial Application with a copy of his prisoner account.¹

On January 14, 2013, Plaintiff filed a “Motion to be Exempted from PLRA as Writ of Mandamus does not Constitute a Civil Action.” [ECF No. 5](#). The Motion is not well taken. The Prison Litigation Reform Act filing fee requirements apply to cases styled as mandamus actions when those actions seek relief analogous to civil complaints under [42 U.S.C. § 1983](#), as the instant case clearly does. [Misiak v. Freeh, 22 Fed.Appx. 384, 386 \(6th Cir. Aug. 8, 2001\)](#); *see*

¹ On January 15, 2013, Plaintiff filed an incomplete Financial Application ([ECF No. 7](#)) and did not send a copy of his prisoner account statement.

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also, [*In re Grant*, 635 F.3d 1227, 1230-31 \(D.C. Cir. 2011\)](#) (PLRA fee requirements applied to mandamus action filed in connection with civil action).

Accordingly, the Motion to Exempt is denied, and this action is dismissed without prejudice. [*McGore v. Wrigglesworth*, 114 F.3d 601, 605 \(6th Cir. 1997\)](#). Further, the Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

January 29, 2013
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge